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SPECIFIC GROUPS AND INDIVIDUALS: MASS EXODUSES AND DISPLACED PERSONS

Human rights and mass exoduses

Report of the High Commissioner for Human Rights, submitted pursuant to Commission on Human Rights resolution 1998/49

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Introduction

1 At its fifty-fourth session, the Commission on Human Rights in its resolution 1998/49, entitled "Human rights and mass exoduses", recalling its recognition that violations of human rights are among the root causes leading to the mass exodus and displacement of people, requested the High Commissioner for Human rights to invite Governments, inter-governmental organizations, specialized agencies and non-governmental organizations to provide information and comments on measures to prevent violations and denials of human rights that lead to and take place during mass exoduses and displacements and, on that basis, to submit a report to the Commission at its fifty-sixth session.

2 The present report is submitted in compliance with that request. It is divided into two parts. The first part summarizes the information and comments received from Governments, intergovernmental organizations, specialized agencies and non-governmental organizations on the issue of human rights and mass exoduses. The second part highlights a number of developments, in the two years since the submission of the previous report, in terms of relevant activities of the United Nations human rights machinery, in particular the Office of the High Commissioner for Human Rights (OHCHR) and the mechanisms of the Commission.

3 This report is intended to complement the recent report of the Secretary-General to the General Assembly on the same subject (A/54/360).

I. INFORMATION AND COMMENTS RECEIVED

4 In accordance with the above-mentioned request of the Commission, the High Commissioner invited, by means of a note verbale, all permanent missions to the United Nations, relevant intergovernmental organizations and specialized agencies and a number of non-governmental organizations focusing on issues of displacement to provide information and comments for reflection in this report. As of 30 November, the date on which this report was due for submission, six replies had been received: from the Governments of the Republic of Cyprus, Qatar and the Federal Republic of Yugoslavia; from the International Labour Organization and the World Health Organization; and from the Organization for Security and Cooperation in Europe. With the exception of the correspondence received from the Government of Qatar, indicating that it had no particular information on the subject, the content of each of these replies is summarized below.

Cyprus

5 The Government of the Republic of Cyprus referred to the mass exodus of Greek Cypriots and Maronites as well as the emigration of large numbers of Turkish Cypriots following the Turkish invasion in 1974. In the light of that experience, the Government noted that it was in favour of taking all measures which would prevent the violation and deprivation of human rights, especially if they might lead to or take place during mass exoduses and displacement.

Federal Republic of Yugoslavia

6. The Federal Republic of Yugoslavia Federal Republic of Yugoslavia, conveying information received from the Federal Ministry for Refugees, Displaced Persons and Humanitarian Aid, focused its remarks on two manifestations of mass exoduses experienced by the country - the refugee problem related to the conflicts in the former Yugoslavia; and the internal displacement of Serbs and other nationalities from Kosovo and Metohija in recent months.

7. First, regarding the refugee problem, reference was made to a 1996 census conducted in cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) indicating that there were 650,000 refugees from the former Yugoslavia in the Federal Republic of Yugoslavia, of which 620,000 were in Serbia. The biggest mass influx of refugees into the country occurred in August 1995 when, over a period of 10 days, 250,000 Serbs fled from Krajina, Croatia. The Government noted that, in contrast with other countries where refugees often were accommodated mostly in camps and collective centres, an estimated 80 per cent of the refugees in the Federal Republic of Yugoslavia were accommodated with relatives or friends. The Government further reported that over the past eight years, it had been spending 5 per cent of the country's gross national product on providing the refugee population with accommodation, food, clothing and footwear, health and social care and education - international aid covering only 10 per cent of that population's needs. With the decline in the economic situation in the country, however, the Government was finding it increasingly difficult to continue to meet the needs of the refugees.

8. On the issue of long-term solutions, the Government of the Federal Republic of Yugoslavia reported that it was continuing to give priority to that of repatriation, but only "an almost negligible number" of refugees had returned to Bosnia and Herzegovina and to Croatia. The low rate of return was reported to be due to the absence of the necessary preconditions for a safe and dignified return, as set out in international and bilateral agreements on return. In view of the difficulties for a number of the refugees to return, the Government concluded that it was necessary to provide for their permanent accommodation and integration in the Federal Republic of Yugoslavia and called on the international community, in particular UNHCR, to assist it in that regard.

9. Second, the Government referred to the mass exodus, beginning in the summer of 1999, of some 280,000 Serbs and 50,000 other non-Albanians from Kosovo and Metohija and reported on the violations of human rights that induced their flight. As with the refugee population, the majority - nearly 80 per cent - of those internally displaced persons were accommodated with local families or with relatives, while the remainder were in collective centres. The Government called on the international community, in particular the NATO-led international peacekeeping force in Kosovo (KFOR) and the United Nations Interim Administration Mission in Kosovo (UNMIK), "to consistently fulfil their obligations related to the preservation of the multi-ethnic

and multi-religious character" of the province and to guarantee the full security and protection of all inhabitants, especially Serbs, Montenegrins and other non-Albanian ethnic groups. Special emphasis was placed on the need to create conditions of security for the unhindered return of internally displaced persons of Serb and Montenegrin nationality, as well as other non-Albanians, and for the full respect of all political, economic, social and cultural rights, especially the right to life, personal safety, freedom of movement, private property, employment, health care and education.

International Labour Organization

10. The International Labour Organization (ILO) emphasized that the root causes of many of the crisis situations which led to displacement included social exclusion and poverty, which in turn were often the result of limited access to economic opportunities and productive resources, as well as an absence of social dialogue and democracy. Where jobs could be found in such situations, the conditions of work were often poor and measures for social protection usually absent. The normal resistance to forms of exploitation, such as child labour, tended to break down. Accordingly, the ILO considers its early involvement in crisis situations as crucial. Its "In-focus programme on crisis response and reconstruction" aims to facilitate the socio-economic integration of those most directly affected by crises and to ensure increased awareness at the national and international levels of the importance of employment and related social concerns in crisis situations and a greater role for ILO constituents in efforts to overcome the effects of crises. The main emphasis of the programme is on employment-related development interventions, such as the promotion of employment-intensive reconstruction and rehabilitation works, skills and entrepreneurship training, small enterprise development, local economic development and the promotion of social dialogue and social protection. As the majority of those affected by crises tend to be women and children, gender considerations are to be prominent in planning programme interventions.

World Health Organization

11. The World Health Organization (WHO), recalling that all human rights are interdependent and interrelated, underscored that any breach in the right to health severely affects the enjoyment of other human rights, which in turn are preconditions for peace and stability. WHO further noted that the extent to which the human rights that have a bearing on health are fulfilled can be a factor in determining whether and how exoduses associated with economic insecurity and poverty occur.

12. Special emphasis was placed on the impact of displacement on the health of women and children, who typically constitute a large proportion of any mass exodus. Of particular concern was their frequent lack of access to basic health-care services. Very often, it was noted, the health services in the host community are unable to accommodate the needs of a large influx of displaced persons. Displaced women may face additional constraints in gaining access to health services as a result of cultural and social factors, which could include restrictions placed on

women and their access to health-care providers of the opposite sex, as well as a lack of understanding on the part of health agencies and professionals of the health needs of these women. The lack of access to health services experienced by displaced women is often further exacerbated by the separation of these women from their support network of relatives and friends.

13. Meanwhile, the health of displaced children may be profoundly affected by the physical and emotional impact of flight. When displacement leads to the separation of families, children may be separated from their primary care givers. For infants and small children in such a situation, access to food may be limited. Adolescents who find themselves alone or caring for younger siblings experience heightened vulnerability. Generally, children who are displaced and whose networks of social support have broken down are particularly at risk of violence and exploitation and, consequently, harm to their health.

14. As a final point, WHO emphasized that States parties to the International Covenant on Economic, Social and Cultural Rights have accepted responsibilities to guarantee to non-nationals residing on their territory the right to health enshrined in article 12 of the Covenant.

Organization for Security and Co-operation in Europe

15. The Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE) drew attention to two relevant areas of its work: freedom of movement and choice of residence, and the trafficking of human beings in the OSCE region.

16. On the first issue, a report was provided which focuses on the system in the former Soviet Union, known as "propiska", of restrictions on freedom of movement and choice of place of residence and the many ways in which it contradicts OSCE commitments and other human rights standards.[1]

17. Regarding trafficking in the OSCE region, the report of a recent OSCE conference on this issue was provided.[2] The report provides a general overview of the problem in the OSCE region, a summary of the relevant OSCE commitments and international standards relating to trafficking, and a discussion of the status of implementation of anti-trafficking measures in the OSCE region.

18. It is noted that, in 1997, an estimated 175,000 women and girls were trafficked from Central and Eastern Europe and the Newly Independent States, primarily to other OSCE States. At the same time, OSCE States in Western Europe and North America continue to be major trafficking destinations for people from developing countries in Asia, Africa and Latin America.

And while trafficking is most often discussed in terms of women, children and sexual exploitation, the report stresses that it is a much wider phenomenon, both globally and in the OSCE region, which includes trafficking for non-sexual purposes, such as sweatshop, domestic or agricultural labour, as well as for sexual purposes. Thus, the problem of "trafficking in human beings" is considered in its broader sense, to involve the movement of people for the purpose of placing them in forced labour or other forms of involuntary servitude.

19. Notwithstanding the increased attention and strong denunciations by the international community of the trafficking in human beings, particularly of women and children, it was noted that few States have taken adequate measures to protect individuals from such practices, to prosecute traffickers or to provide effective remedies for victims. "Current legal frameworks, policies and strategies", the report concludes, "have proven inadequate to deal effectively with this complex transnational problem, and coordination, at both the national and international level, has been the exception rather than the rule".

20. The report identifies ways in which OSCE could address aspects of the problem, including by integrating anti-trafficking measures into existing human rights, civil society and institution-building activities, providing training on the issue to OSCE field mission staff and taking a leading role in combating trafficking in south-eastern Europe as part of the OSCE mandate under the Stability Pact. Underscoring, at the same time, that the primary responsibility for combating trafficking rests with States, the report identifies a number of areas where OSCE States could take concrete actions at the national and international levels to prevent and suppress trafficking and to protect the human rights of trafficked persons.

II. ACTIVITIES OF THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

21. The Commission has recognized that the human rights machinery of the United Nations has important capabilities to address human rights violations which cause movements of refugees and displaced persons or prevent durable solutions to their plight. Specifically, it requested the High Commissioner for Human Rights, in the exercise of her mandate and in cooperation with the United Nations High Commissioner for Refugees, to pay particular attention to human rights situations which cause or threaten to cause mass exoduses or displacements and to contribute to efforts to address such situations effectively through promotion and protection measures, emergency preparedness and response mechanisms, early warning and information sharing, technical advice and expertise and cooperation in countries of origin as well as host countries.

22. Regardless of where mass exoduses occur, partnerships with other relevant actors and organizations are essential to ensuring a comprehensive response. The Commission, in its resolution on the subject, has noted the complementarity between the systems for the protection of human rights and for humanitarian action, and that cooperation between them makes an important contribution to the promotion and protection of the human rights of displaced persons.

In particular, it has recognized the complementarity between the mandates of the High Commissioner for Human Rights and the High Commissioner for Refugees and the importance of cooperation between them. The contributions of the High Commissioner for Refugees to the deliberations of the Commission have served to reinforce the close nexus that exists between the two Offices' respective areas of work. The High Commissioner for Human Rights, for her part, was again invited to address the Executive Committee of UNHCR at its most recent session, the theme of which, "Strengthening partnership to ensure protection", was of particular interest to OHCHR.

23. The growing number of requests received by OHCHR from Governments for specialized technical assistance and advisory services, for instance in the areas of legal reform or the strengthening of civil society, evidences a readiness on the part of Governments to engage partners such as the United Nations and NGOs to strengthen national human rights protection. The process of integrating human rights across the United Nations system has also woven human rights into broader spheres of international activity. For example, it has paved the way for the integration of a human rights perspective in early warning systems, humanitarian operations, peacekeeping and development cooperation. The recent discussion in the Security Council on the critical issue of the protection of civilians in armed conflict has underlined that protection is a collective responsibility requiring a multi-faceted and collaborative response.

24. In no area is this more true than that of prevention. Combating the root causes of mass exoduses is of critical importance if the tragic mass uprooting of populations witnessed on so many occasions in the past year alone is not to be repeated. Many of these cases of mass exodus were rooted in conflict and inequities based on ethnic or racial differences, discrimination and persecution. Moreover, it is often the case that the victims of displacement also face discrimination once displaced, whether this be in other countries or still within their own. It is thus most appropriate that the General Assembly, in its resolution 49/146, requested the organization of a seminar on flows of refugees resulting from ethnic conflicts or political restructuring of multi-ethnic societies in socio-economic transition and their link to racism in the host country. In accordance with this request, OHCHR is convening a seminar of experts on racism, refugees and multi-ethnic States, in Geneva in December 1999, with the objectives of examining racism and ethnic conflict as a root cause of refugee crises, identifying ways and means of impeding the expansion of racism and ethnic conflict in order to prevent displacement crises, ensuring better protection of vulnerable groups within States concerned, and ensuring the protection of the rights of refugees. The conclusions and recommendations of this seminar will be submitted to the Preparatory Committee of the World Conference on Racism, to be held in 2001, and, of course, reflected in future reports of the High Commissioner on the subject of mass exoduses.

III CONCLUSIONS

25. The Commission's consideration of this issue is more relevant than ever. Awareness of the inherent inter-linkages between human rights violations and situations of mass exodus and displacement is now well-developed. At this stage, what is required is more focused attention to the measures required to prevent and redress the human rights violations causing and characterizing mass exoduses, as well as the undertaking of concrete action when such crises occur. In this connection, continued attention to this issue, and in particular to the further development of the role of the mechanisms of the Commission in addressing it, both in general and especially in specific situations, is critical.

Notes

[1] Freedom of Movement. The Issue of Internal Registration (Propiska). The CIS Migration Conference, OSCE Human Dimension Implementation Meeting, October 1998, Background Paper 2 (Warsaw: OSCE/ODIHR, 1998).

[2] Trafficking in Human Beings: Implications for the OSCE, OSCE Review Conference, September 1999, ODIHR Background Paper 1999/3 (Warsaw: OSCE/ODIHR, 1999).